

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner's daughter was offered health insurance by her college which provides "year-round" coverage for both inpatient and outpatient hospital and physician bills related to injury and sickness subject to some caps and deductibles. The policy also covers laboratory and X-ray

expenses, emergency room, mental health, alcohol and substance abuse, prescription drugs, ambulance and other services, again subject to deductibles and caps. The cost of the insurance is \$909 per year. The college advised the petitioner that she had to either accept or waive this insurance by September 15, 2004 for the entire school year or by January 31, 2005 for the spring semester. If she waived the insurance, she had to provide comparable insurance for her daughter. The petitioner waived the insurance because she thought her daughter would be eligible for VHAP.

3. On September 8, 2004, DCF mailed the petitioner a notice saying that her daughter would no longer be eligible for VHAP because she was "not an eligible student" and because she had insurance available to her through her college which she had elected not to purchase.

4. The petitioner appealed that decision and her daughter has continued to receive VHAP benefits pending this appeal. The petitioner did not take any action following the receipt of that notice to enroll her daughter in the college's health insurance program. She says that she could not afford the coverage. She does not believe her daughter could have the cost of her health insurance added as an expense for

purposes of her student loans but presented no evidence of that fact.

ORDER

The decision of DCF is affirmed.

REASONS

The Department of DCF has adopted a regulation as part of its VHAP program which limits participation to those who are not insured or under insured. VHAP 4000. The Department has excluded from its definition of un- and underinsured and declared ineligible "students under the age of twenty-three enrolled in a program of an institution of higher education . . . if they have elected not to purchase health insurance covering both hospital and physician services offered by their education institution." VHAP 4001.1.

The petitioner's daughter is an eighteen-year-old who is enrolled in a college which offers health insurance covering both hospital and physician services, although, to be sure, it is not as comprehensive as the VHAP program. The daughter has opted not to purchase that insurance. As such, she is excluded under the above regulation from receiving VHAP benefits.

DCF has argued in the past, and the Board has agreed, that this exclusion is rational because this type of restriction allows DCF to cover the largest group of completely uninsured persons possible by excluding persons who have reasonable access to some minimal level of insurance through the group insurance rates of an institution. See Fair Hearing No. 17,538. Although there is some additional financial strain placed on the family to obtain this insurance (about \$40 per month above the VHAP premium), it cannot be found that DCF's exclusion of those who have relatively low-cost student insurance which will cover the majority of their health needs is irrational or illegal. As DCF has acted within its regulations, the Board is bound to uphold the result. 3 V.S.A. § 3091(d) and Fair Hearing Rule 17.

The petitioner has also been notified that she is an "ineligible student" as the term is defined in the regulations. Although it is not necessary to make a formal ruling on that decision since the petitioner is eliminated by the student insurance rule, the petitioner should be aware that full-time students under age twenty-three who are not in a work/study program or do not work at least twenty-hours per week are also not eligible for coverage under the VHAP program. VHAP 4001.6. Thus, even if the petitioner were not

eliminated by the college insurance rule, she would still likely be ineligible under another rule eliminating full-time non-working students from coverage. The petitioner is urged to discuss the details of this rule with her worker.

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